

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Ian E. James

Case Number: 21-01625

vs.

Respondent
Edward Jones

Hearing Site: New Orleans, Louisiana

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Associated Person vs. Member

REPRESENTATION OF PARTIES

For Claimant Ian E. James: Dochter Kennedy, MBA, J.D., AdvisorLaw, LLC, Westminster, Colorado.

For Respondent Edward Jones: Jonathan W. Hackbarth, Esq., Quarles & Brady LLP, Milwaukee, Wisconsin.

CASE INFORMATION

Statement of Claim filed on or about: June 25, 2021.
Ian E. James signed the Submission Agreement: June 25, 2021.

Statement of Answer filed by Respondent on or about: September 3, 2021.
Edward Jones signed the Submission Agreement: August 4, 2021.

CASE SUMMARY

In the Statement of Claim, Claimant asserted a claim seeking expungement of information relating to Claimant's termination of employment from the Form U5 and U4 registration records maintained by the Central Registration Depository ("CRD").

In the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: (1) expungement of the Form U5 corresponding

with Occurrence Number 1336215, and those relevant portions of the Form U4, on the basis that the statement is defamatory in nature and misleading, to include: (a) an amendment of the answer to question 7B on Claimant's Form U5, from a "Yes" response to "No;" and (b) deletion of the Internal Review Disclosure Reporting Page accompanying Occurrence Number 1336215; (2) damages in the amount of \$1.00 from Respondent; and (3) any other relief that the Arbitrator deems just and equitable.

In the Statement of Answer, Respondent requested that an award be entered dismissing and denying Claimant's claim in its entirety; assessing all forum fees and hearing fees against Claimant; and for such further relief as the Arbitrator deems just.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On October 7, 2021, Respondent filed a Motion to Dismiss Ineligible Claims pursuant to Rule 13206 of the Code of Arbitration Procedure ("Code"). On November 5, 2021, Claimant filed a Response to Respondent's Motion to Dismiss. On November 9, 2021, Respondent filed a Reply in Support of its Motion to Dismiss. On December 3, 2021, the Arbitrator heard oral arguments on Respondent's Motion to Dismiss. As set forth in the Award Section below, by Order dated December 3, 2021, Respondent's Motion to Dismiss was granted pursuant to Rule 13206(a). The Arbitrator granted Respondent's Motion to Dismiss on the following grounds:

Under Rule 13206(a) of the Code, in order for a claim to be eligible for submission to arbitration it must be submitted not more than six years from the "occurrence or event giving rise to the claim." The Arbitrator finds the occurrence or event giving rise to the claim in this case was Respondent's reporting of the termination disclosure on Form U5 on January 12, 2007. Claimant's Statement of Claim was not filed until more than ten years after this occurrence. The Arbitrator does not find Claimant's argument that the amendments to FINRA Rule 2210 effective June 16, 2016, requiring Members' websites and any other website that includes their professional profile to include a readily apparent reference and hyperlink to BrokerCheck® report, to be persuasive as constituting the "occurrence or event" giving rise to his expungement claim because of the "new and substantial harm" Claimant has and continues to suffer as a result of the continuing, wide dissemination of this disclosure. The Arbitrator's decision is based on FINRA cases, Federal cases and FINRA Rule 13206(a).

AWARD

After considering the pleadings, the testimony and evidence presented at the expungement hearing, and any post-hearing submissions, the Arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

Claimant's claim as stated in the Statement of Claim is dismissed in its entirety pursuant to FINRA Rule 13206(a) of the Code.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee = \$ 50.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

Member Surcharge = \$ 150.00

Hearing Session Fees and Assessments

The Arbitrator has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator, including a pre-hearing conference with the Arbitrator, which lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) pre-hearing sessions with a single Arbitrator @ \$50.00/session = \$ 100.00

Pre-Hearing Conferences: October 19, 2021 1 session

December 3, 2021 1 session

Total Hearing Session Fees = \$ 100.00

The Arbitrator has assessed \$75.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$25.00 of the hearing session fees to Respondent.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATOR


Jeff Kilgore

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature



Jeff Kilgore
Sole Public Arbitrator

12 11 2021

Signature Date

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December 13, 2021

Date of Service (For FINRA Dispute Resolution Services use only)